

REMARKS

In the September 6, 2006 Office Action, the Examiner noted that claims 28-62 were pending in the application; rejected claims 39, 40, 42, 44, 50, 51, 53, 58 and 59 under 35 USC § 101; rejected claims 28 and 31-38 under 35 USC § 103(a); and allowed claims 29, 41, 43, 45-49, 52, 54-57 and 60-62. Claims 39, 40, 42, 44, 50, 51, 53, 58, 59, 61 and 62 have been canceled and claims 63-76 have been added. Thus, claims 28-38, 41, 43, 45-49, 52, 54-57, 60 and 63-76 are pending and under consideration.

Rejections under 35 USC § 101

On pages 3-5 of the Office Action, claims 39, 40, 42, 44, 50, 51, 53, 58 and 59 were rejected under 35 USC § 101 as directed to unpatentable subject matter by construing apparatus and system claims as "directed to software per se, which is not statutory." Although this rejection is believed to be improper, since neither an apparatus nor a system can be "software per se," these claims have been canceled and replaced by claims which recite the same operations, but are either directed to a "computer-readable medium" or recite the components that perform the operations, rather than means-plus-function elements.

It is submitted that MPEP § 2106.IV.B.1(a) clearly indicates that a claim directed to a computer-readable medium is not "software per se." Furthermore, it is submitted that "a programmed processor" as recited in the body of claims 70-76 is not "software per se." It is noted that one of ordinary skill in the art would be well aware that virtually anything referred to as a "computer unit" (e.g., paragraph [0030] of the Substitute Specification) includes a processor and an interface and, therefore, no new matter has been added by recitation of a programmed processor in claims 70-76 or the interface recited in claims 73 and 78.

In the first paragraph on page 15, it was indicated that claims 39, 40, 42, 44, 50, 51, 53, 58 and 59 "would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101". As noted above, the operations recited in claims 39, 40, 58 and 59 are recited using almost the same words in the new independent claims: claims 63, 66, 68 and 69, respectively and claims 70, 73, 75 and 76, respectively. Therefore, withdrawal of the rejection under 35 USC § 101 and allowance of claims 63-76 are respectfully requested.

Rejections under 35 USC § 103(a)

On pages 5-14 of the Office Action, claims 28 and 30-38 were rejected under 35 USC § 103(a); however, at the bottom of page 14, claims 61 and 62 were indicated as reciting

allowable subject matter. Claims 28 and 30 have been amended to include limitations similar to those recited in claims 61 and 62. As claims 32-38 depend from claims 28 and 30, it is submitted that claims 28 and 30-38 patentably distinguish over the prior art for the reasons recognized in allowing claims 61 and 62.

Summary

For the reasons set forth above, it is submitted that claims 28-38, 41, 43, 45-49, 52, 54-57, 60 and 63-76 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: /Richard A. Gollhofer/
Richard A. Gollhofer
Registration No. 31, 106

1201 New York Avenue, NW, 7th Floor
Washington, D.C. 20005
Telephone: (202) 434-1500
Facsimile: (202) 434-1501